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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JON PARKER,

Defendant and Appellant.

D053240

(Super. Ct. No. SCE274351)

APPEAL from a judgment of the Superior Court of San Diego County, Lantz
Lewis, Judge. Affirmed.

A jury convicted Jon Parker of assault with a deadly weapon (Pen. Code,¹ § 245,
subd. (a)(1)) and exhibiting a deadly weapon other than a firearm (§ 417, subd. (a)(1)).

In connection with the assault count, the jury also found Parker personally used a deadly
weapon, to wit: a knife (§ 1192.7, subd. (c)(23)). The trial court placed Parker on three

¹ Statutory references are to the Penal Code.

years of formal probation, on the condition, among other things, that he serve 180 days in jail.

FACTS

Parker lived in an apartment above the apartment of Antonio Nava. In August 2007 Nava learned that Parker had been having an affair with his wife, which led to the breakup of the marriage. According to Nava, this was the fourth time his wife had an extramarital affair, and he blamed her more than Parker. Nava asked Parker to sign a declaration for use in Nava's custody dispute with his wife, but Parker refused.

On the night of September 9, Nava was carrying his son and walking toward his apartment with his sister and sister-in-law when he walked by Parker and Parker's friend. Nava said Parker insulted him, but he did not pursue it because he was holding his son.

Later that night, Parker received a number of calls from a blocked phone number. The male caller said: "I'll fuck you up, you fucking pussy." During one of the calls, Parker thought he heard the caller talking outside. Parker looked outside and saw Nava talking on a cell phone.

Parker went downstairs to tell Nava to leave him alone. Parker brought a kitchen steak knife with him because he was worried that Nava, who was bigger than he, might have received combat training in the Navy.

When Nava saw Parker, he shouted: "You have a knife." As Parker walked toward him, Nava backed up. According to Nava, Parker lunged at him with the knife. According to Parker, Nava rushed him and grabbed his arms. In the shuffle the handle of the knife was broken off, and Nava received a laceration to his right hand. Meanwhile,

Parker no longer had the knife, and he and Nava fought each other on the ground until neighbors broke up the fight.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable issues:

(1) whether the trial court erred by initially failing to instruct the jury that Parker had no duty to retreat from the confrontation with Nava; (2) whether the court erred by not instructing the jury to begin its deliberations anew after the court modified the instruction on self-defense; (3) whether the instructional delay prejudiced Parker; (4) whether the court prejudicially erred by not suspending the trial when Parker became ill or by not granting a new trial on this issue; and (5) whether the court prejudicially erred when it provided the knife and a ruler to the deliberating jury, which had requested these items.

We granted Parker permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Competent counsel has represented Parker on this appeal.

DISPOSITION

The judgment is affirmed.

NARES, Acting P. J.

WE CONCUR:

O'ROURKE, J.

AARON, J.